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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,959	07/16/2003	Myron K. Gordin	P05717US01	9987
22885 7590 10/15/2007 MCKEE, VOORHEES & SEASE, P.L.C. 801 GRAND AVENUE SUITE 3200 DES MOINES, IA 50309-2721			EXAMINER KATCHEVES, BASIL S	
			ART UNIT 3633	PAPER NUMBER
			MAIL DATE 10/15/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/620,959

Applicant(s)

GORDIN ET AL.

Examiner

Basil Katcheves

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-16,18-57,59-74 and 76-89 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-16,18-24,28-57,59-61,65-74 and 76-78,82-89 is/are rejected.
- 7) ☒ Claim(s) 25-27,62-64 and 79-81 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The applicant has cancelled claims 2, 17, 58 and 75. Pending claims 1, 3-16, 18-57, 59-74 and 76-89 are examined below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-16, 18, 19, 21, 31-50, 52-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,340,790 to Gordin et al. in view of U.S. Patent No. 4,019,301 to Fox.

Regarding claim 1, 3, 4, 5, 7, 36, 42, 43, 44, 45, 54, Gordin discloses a substantially hollow, tubular, steel, tapered, elongated metal pole (fig. 11: 92) which holds lighting. However, Gordin does not disclose a plastic independent covering substantially around the whole pole. Fox discloses wrapped plastic sheets (figs. 5 and see plurality of sheet members in fig. 6), having opposite edges connected (fig. 6), covering a substantial portion of metal structural members (secured from movement). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Gordin by adding the protective plastic covering of Fox in order to prevent corrosion. Regarding the claimed thicknesses of the cover and pole, Fox and

Gordin disclose the basic claim structure of the instant application but does not disclose specific dimensions. Applicant fails to show criticality for specifically claimed dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims.

Regarding claim 6, 9, Gordin discloses the pole as slip fitted to a base (fig. 11: see slip fit over concrete base).

Regarding claim 8, Gordin discloses the pole as comprising a plurality of sections (fig. 7: 72& 76).

Regarding claim 10, Fox discloses an independent covering layer for different sections of metal pipe (fig. 6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use an independent cover for each tubular member, as disclosed by Terrels, in order to ease installation.

Regarding claims 11, 12, overlapping cover layers would naturally occur as, shown in figure 7 of Gordin, since the poles overlap, where one part overlaps a preceding part (see stacked fig. 7 of Gordin).

Regarding claim 13, Fox discloses a sheet of material surrounding the pole in a wrapped manner.

Regarding claims 14-16, 50, Fox discloses the use of a vinyl (inherently flexible) material (column 3: lines 7-14). Fox does not specifically disclose the use of a vinyl/acrylic alloy. However, Fox discloses the use of plastic materials which resist corrosion. Plastic, as cited in Fox, is used for a variety of synthetic components and a

vinyl/acrylic alloy is a plastic resistant to corrosion and, therefore, would be a functional equivalent making it's use an obvious design choice.

Regarding claim 18, Fox discloses the basic claim structure of the instant application but does not disclose the dimension of approximately .04 inches thick. Applicant fails to show criticality for specifically claimed dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims.

Regarding claim 19, Fox discloses the cover as having top, bottom and sides.

Regarding claim 21, 47, 48, Gordin in view of Fox would inherently have a trapezoidal shaped cover (when unrolled) since the cover of a tapered pole would have to be trapezoidal.

Regarding claim 31, 32, 49, Fox discloses an opening (top and bottom) in the covering layer which would fit (overlap) over the pole.

Regarding claims 33-35, 52, Fox discloses a sealing element around the pole (fig. 9: 128), the sealing element is not particularly disclosed as caulk but is disclosed as a compressible material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Fox by using caulk, as caulk would be a functional equivalent of a compressible material for preventing moisture intrusion.

Regarding claims 37-41, 53, Fox discloses the cover as inherently having a color, a texture and a pattern of a plastic material. An obvious design choice would be to paint the cover with any appropriate color.

Regarding claim 46, the height of the pole would be an obvious design choice dependant upon the intended use of the pole.

Claims 20, 22-24, 51, 55-57, 59-61, 65-78, 82-89 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,340,790 to Gordin et al in view of U.S. Patent No. 4,019,301 to Fox further in view of U.S. Patent No. 3,968,561 to Oakes et al.

Regarding claims 20, 51, Gordin in view of Fox does not disclose the sleeves, when laying flat, as having the opposite side edges rolled into a U shape. Oakes discloses a pole sleeve having opposite edges rolled into a U shape (fig. 2: 21). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Gordin in view of Fox by using the U shaped ends of Oakes in order to secure the sleeve around the pole in a tighter crimped manner.

Regarding claim 22, Gordin in view of Fox discloses the sleeve as being in a trapezoidal shape when in a flat configuration, since Gordin disclose the sleeve as a truncated cone shape. Further in view of Oakes, as above, would include rolled edges (as disclosed by Oaks in the rejection of claim 20).

Regarding claim 23, Gordin in view of Fox does not disclose side edges (Fox: fig. 7: 90, 92, 88) as overlapping.

Regarding claim 24, Fox discloses a fastener (fig. 8: 102, 108) for securing the sheet around the pole.

Regarding claim 55, claim 55 is rejected for reasons cited in the rejection of claim 51. In addition, the rolled edge of Oakes appears act as a fastener.

Regarding claim 56, 59, 67, 73, 76, 84, Gordin discloses a substantially hollow, tubular, steel, tapered, elongated metal pole (fig. 11: 92) which holds lighting. However, Gordin does not disclose a plastic independent covering substantially around the whole pole. Fox discloses wrapped plastic sheets (fig. 6) for covering metal members (secured from movement). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Gordin by adding the protective plastic covering of Fox in order to prevent corrosion. Regarding the claimed thickness of the cover and pole, Fox and Gordin discloses the basic claim structure of the instant application but do not disclose specific dimensions. Applicant fails to show criticality for specifically claimed dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims. Gordin in view of Fox does not disclose the sleeves as having the opposite side edges rolled into a U shape. Oakes discloses a pole sleeve having opposite edges rolled into a U shape (fig. 2: 21). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Gordin in view of Fox by using the U shaped ends of Oakes in order to secure the sleeve around the pole in a tighter crimped manner.

Regarding claim 57, 74, the height of the pole would be an obvious design choice dependant upon the intended use of the pole.

Regarding claim 60, 77, Fox discloses the sides (88, 90, 92) as adjacent but not overlapping.

Regarding claim 61, 78, Fox discloses a fastener (108) for securing the cover.

Regarding claims 65, 66, 82, 83, Gordin in view of Fox further in view of Oakes does not disclose the use of a screw passing through the cover to secure it. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a screw to secure the cover, since screws are typically used to screw through something and secure them to a second element.

Regarding claims 68-72, 85-89, Fox discloses the cover as inherently having a color, a texture and a pattern of a plastic material. An obvious design choice would be to paint the cover with any appropriate color.

Claims 28, 29, 30, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,340,790 to Gordin et al in view of U.S. Patent No. 4,019,301 to Fox further in view of U.S. Patent No. 4,092,079 to Swanson.

Regarding claim 28 Gordin in view of Fox does not disclose the use of fasteners. Swanson discloses a sleeve for a pole using fasteners to secure the sleeve (fig. 5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Gordin in view of Fox by using fasteners, as disclosed by Swanson, in order to better secure the sleeves.

Regarding claim 29, Swanson discloses the use of screws (49).

Regarding claim 30, Swanson discloses bolts (49) and nuts (51).

Claim Objections

Claims 25, 62 and 79 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 26, 27, 63, 64, 80 and 81 are objected to for depending from 25, 62 and 79.

Response to Arguments

Applicant's arguments filed 8/9/07 have been fully considered but they are not persuasive. The applicant argues the combination of the Gordin reference with the Fox reference. The applicant should note that Fox discloses a sheet, weather resistant, which is used to wrap structural metal members. Gordin discloses a metal structural member and therefore, may be used in combination with Fox for reasons listed in the rejection above. The applicant argues that Fox is for the repair of structural members. Fox is used for the repairs and the prevention of corrosion. Corrosion is a problem with metal which is exposed to the elements. A sheet which protects metals from the elements reduces corrosion and therefore would be a useful combination to add to Gordin. The applicant claims that "a covering layer" is claimed in the instant application but is not taught by Fox. The applicant should reference the figures of Fox to see the plastic covering which Fox teaches. The plastic covering layer of Fox meets the

structurally claimed limitations of the applicant's covering sheet and therefore may be used to meet those limitations in the combination with the other prior art cited. The applicant argues the slurry between the metal member and plastic sheet of Fox. The applicant should note that Fox teaches the benefits of the plastic sheet as protection against the elements and the office action is not combining the slurry with Gordin. The rejection above is based upon Fox's teaching that a plastic sheet (s) protect from the elements. The applicant also addresses the new limitations added to the claims in the recent amendment. These are addressed in the rejection above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is

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(571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot, can be reached at (571) 272-6777.

BK


Basil Katcheves

10/10/07

Primary Examiner, AU 3633